

EN BANC

[A.C. No. 11380, August 16, 2016]

**JEN SHERRY WEE-CRUZ, COMPLAINANT, VS. ATTY. CHICHINA
FAYE LIM, RESPONDENT.**

DECISION

SERENO, C.J.:

This administrative case arose from a Complaint^[1] for disbarment or suspension filed by Jen Sherry Wee-Cruz (complainant) against Atty. Chichina Faye Lim (respondent) before the Integrated Bar of the Philippines (IBP). The IBP found respondent guilty of gross misconduct because of her issuance of worthless checks to complainant's brother. The IBP Board of Governors thereafter resolved to disbar respondent from the practice of law.^[2]

As a preliminary matter, this Court reiterates that it alone has the power to discipline lawyers and remove their names from the rolls.^[3] The IBP Board of Governors may only *recommend* the dismissal of a complaint or the imposition of disciplinary action on a respondent lawyer.^[4]

While it adopts the factual findings of the IBP, this Court finds that the penalty of suspension for two years will suffice.

ANTECEDENT FACTS

The parties to this case were childhood friends.^[5] This relationship enabled respondent to borrow substantial amounts of money from complainant and the latter's brother.^[6] Complainant enumerated three instances when her trust was abused by respondent in order to obtain loans the latter could not pay.

First instance. In 2008, respondent asked if she could use the credit card of complainant to purchase something.^[7] As the latter was then unable to get out of the house because of a delicate pregnancy, she had to ask respondent to withdraw P10,000 from her ATM card to pay for her credit card bill.^[8] Complainant tendered both her ATM card, which had an available balance of P78,000, and her credit card.^[9] She later found out that respondent had depleted all the funds in the ATM card and used up a considerable amount from the cash advance limit of the credit card.^[10] Despite the repeated demands of complainant and the consequent execution of a promissory note by respondent, the latter still failed to pay the principal amount of P1 42,000 and the interests thereon that had accrued.^[11]

Second instance. Also in 2008, respondent incurred a P1.055 million loan from complainant's brother.^[12] The loan was covered by postdated checks, which were

later dishonored and returned by the bank for the reason that the account had been closed.^[13] In September 2010, respondent issued a promissory note, which remained unfulfilled as of the date of filing of the Complaint.^[14]

Third instance. In February 2010, respondent issued postdated checks payable to "Cash" as partial payment of the outstanding loan accommodation for more than f 3 million, which had been extended to her by complainant.^[15] These checks were later dishonored and returned by the bank for the reason that the account had been closed.^[16]

Complainant and her brother repeatedly called and sent text messages to petitioner to inform her that her checks had been dishonored and to demand that she make good on her checks.^[17] On 7 October 2010, complainant personally handed a demand letter to respondent.^[18] As the latter still failed to honor her promises to pay, complainant instituted a criminal complaint. The Office of the City Prosecutor found probable cause to indict respondent for four counts of violation of *Batas Pambansa Big. 22* (B.P. 22); and Article 315, par. 2(d) of the Revised Penal Code.^[19]

On 15 March 2011, complainant lodged a Complaint against respondent before the IBP.

PROCEEDINGS BEFORE THE IBP

Despite due notice, respondent did not submit an Answer, appear at the mandatory conference, or submit a position paper.^[20]

IBP Commissioner Felimon C. Abelita III took the silence and nonparticipation of respondent as an admission of guilt.^[21] He pointed out that her attitude was a clear defiance of the commission and the institution it represented.^[22] Hence, he recommended that respondent be suspended until she is able to pay in full her indebtedness to complainant's brother.^[23]

The IBP Board of Governors adopted and approved the Report and Recommendation of Commissioner Abelita with the modification that respondent be disbarred, not merely suspended. The board considered her disrespect and disregard of its orders as an aggravating circumstance.^[24]

On 14 April 2016, respondent filed a Petition for Review on *Certiorari* before this Court. She asserts that she did not exhibit any immoral or deceitful conduct because the acts were done in her private capacity.^[25] She insists that she exhibited good faith and an honest intention to settle, as she made partial payments amounting to P1.2 million.^[26] She blames complainant for not giving adequate time for the former to settle the face value of the checks.^[27] In closing, respondent submits that disbarment would be too harsh a penalty, considering the absence of bad faith, malice or spite on her part.^[28]

THE RULING OF THE COURT

Respondent must be suspended from the practice of law for violation of Rule 1.01, Canon 1 of the Code of Professional Responsibility.

Respondent cannot evade disciplinary sanctions by implying that there was no attorney-client relationship between her and complainant. In *Nulada v. Paulma*,^[29] this Court reiterated that by taking the Lawyer's Oath, lawyers become guardians of the law and indispensable instruments for the orderly administration of justice. As such, they can be disciplined for any misconduct, be it in their professional or in their private capacity, and thereby be rendered unfit to continue to be officers of the court.^[30]

In this case, complainant and her brother categorically stated that they had agreed to lend substantial amounts of money to respondent, because "she's a lawyer."^[31] Indeed, lawyers are held by the community in very high esteem; yet respondent eroded this goodwill when she repeatedly broke her promises to pay and make good on her checks.

On several occasions, this Court has had to discipline members of the legal profession for their issuance of worthless checks. In *Enriquez v. De Vera*,^[32] the correlation between BP 22 and administrative cases against lawyers was explained:

Being a lawyer, respondent was well aware of the objectives and coverage of [BP] 22. If he did not, he was nonetheless presumed to know them, for the law was penal in character and application. His issuance of the unfunded check involved herein knowingly violated [BP] 22, and exhibited his indifference towards the pernicious effect of his illegal act to public interest and public order. He thereby swept aside his Lawyer's Oath that enjoined him to support the Constitution and obey the laws.

This Court, however, agrees with respondent that the penalty of disbarment would be too harsh. Recognizing the consequence of disbarment on the economic life and honor of an erring lawyer, this Court held in *Anacta v. Resurrection*^[33] that disbarment should not be decreed where any punishment less severe would accomplish the end desired.

In *Nulada*, this Court cited *Heenan v. Espejo*^[34] *A-I Financial Services, Inc. v. Valerio*,^[35] *Dizon v. De Taza*,^[36] and *Wong v. Moya*^[37] as basis for meting out two-year suspensions to lawyers who had issued worthless checks and failed to pay their debts. In *Sanchez v. Torres*,^[38] the same penalty was imposed. The respondent lawyer therein was found guilty of wilful dishonesty and unethical conduct for failing to pay his debt and for issuing checks without sufficient funds. As in this case, Atty. Torres exploited his friendship with the complainant therein in order to borrow a substantial amount of money. We find it appropriate to impose the same penalty on respondent in this case.

WHEREFORE, Atty. Chichina Faye Lim is **SUSPENDED** from the practice of law for two years. Let a copy of this Decision be entered in her personal record at the Office of the Bar Confidant, and a copy be served on the Integrated Bar of the Philippines and the Office of the Court Administrator for circulation to all the courts in the land.